

KANSAS ADJUTANT GENERAL'S DEPARTMENT

MEMORANDUM FOR ALL STATE EMPLOYEES

FROM: TAG-SHRO

SUBJECT: DISCRIMINATION AND SEXUAL HARASSMENT
TAG Policy No. 034-03

EFFECTIVE DATE: November 1, 2016

POLICY STATEMENT: The Adjutant General's Department prohibits discrimination on the basis of race, color, religion, sexual orientation, gender identity, gender, age, national origin, ancestry, military or veteran status, genetic information or disability status in the workplace, or in employment-related activities. The Adjutant General's Department also prohibits sexual harassment in the work place, at employment-related activities, and/or agency sponsored events.

DEFINITIONS:

Conditions of Employment. That part of employment that sets out the duties, responsibilities, hours of work, salary, leave, and other privileges enjoyed by employees are Conditions of Employment.

Discrimination. As defined by law, unequal treatment on the basis of race, religion, color, sexual orientation, gender identity, gender, age, national origin, ancestry, military or veteran status, genetic information or disability status, is Discrimination.

Genetic Information. Under Title II of the Genetic Information Nondiscrimination Act (GINA), genetic information includes: an individual's family medical history, the results of an individual's or family member's genetic testing.

Grievance. A formal complaint that is a charge:

- related to working conditions, employee relationships, or unfair work-related matters,
- of alleged discrimination on the basis of race, color, religion, sexual orientation, gender identity, gender, age, national origin, ancestry, military or veteran status, genetic information, or disability status related to employment practice or work environment,
- of sexual harassment.

Sexual Harassment. As defined by law, unwelcome advances of a sexual nature, requests for sexual favor, verbal or physical conduct of a sexual nature, and derogatory sexual remarks is Sexual Harassment. Sexual Harassment can be committed by men, or women, and between people of the same or different sex.

Sexual Violence. Any physical act which is sexual in nature that is committed by force or without the full and informed consent of all persons involved is Sexual Violence.

PROCESS GUIDELINES:

The Adjutant General's Department is an Equal Opportunity Employer and committed to being proactive in identifying and eliminating discriminatory barriers to employment and advancement with regard to the Agency's policies, programs, practices, and environment. The Agency shall take all actions necessary to maintain a work environment that is free of discrimination and sexually harassing behaviors.

The Adjutant General will not tolerate any direct or indirect acts of discrimination, harassment, intimidation, or retaliation of employees and co-workers in the workplace.

Examples of Discrimination in the Workplace

Workplace discrimination occurs when an employee or group of employees is treated less favorably than similarly situated employees of a different race, sex, age, national origin, religion, genetic makeup or disability.. The difference in treatment can be obvious, such as jokes, slurs, and innuendoes, or it can be subtle such as job assignments, lack of training opportunities, pay, and work hours.

Discrimination includes bias in hiring, firing, discipline, job assignments, transfers or any other terms or Conditions of Employment.

Examples of Sexual Harassment

Sexual Harassment is any behavior or physical contact, advances, and comments in person, through another person, and/or via phone, text message, email, social media, or any other means, that is unwelcome and based on sex or gender stereotypes. Submission to such conduct made either explicitly or implicitly a term or condition of employment, and submission to or rejection of such conduct is used as the basis for employment decisions affecting the individual's terms and conditions of employment is also sexual harassment

Sexual Harassment is severe, pervasive, and objectively offensive, and has the purpose or effect of substantially interfering with a person's ability to perform their job or work activities.

Sexual Harassment may include, but is not limited to:

- threats or insinuation that lack of sexual submission will adversely affect the individual's employment, wages, advancement, assigned duties or shifts;
- other conditions that affect the individuals terms and conditions of employment;
- unwelcome efforts to develop a romantic or sexual relationship;
- unwelcome commentary about an individual's body or sexual activities;
- sexually suggestive objects or pictures in the work place;
- threatening to engage in the commission of an unwelcome sexual act with another person;
- stalking or cyberstalking;
- engaging in indecent exposure; voyeurism, or other invasion of personal privacy;
- unwelcome physical contact or closeness of any kind;
- unwelcome jokes, graffiti, calendars, emails and posters or teasing of a sexual nature or based upon gender or stereotypes; and
- sexual violence.

Filing a Grievance

Any employee of the Adjutant General's Department who believes that he or she has been harassed or discriminated against because of race, color, religion, sexual orientation, gender identity, gender, age, national origin, ancestry, military or veteran status, genetic information, or disability status in the workplace, or in employment-related activities has the right to file a grievance with the Agency. See TAG Policy No. 034-10 "Grievances" for details.

It is imperative that employees bring any alleged discriminatory and/or harassing actions or behaviors to the attention of their immediate supervisor as soon as possible. If the supervisor is party to the action/behavior, the employee should discuss with their manager or State HR Director, as appropriate.

The Adjutant General's Department prohibits retaliation against an employee(s) for bringing a bona fide complaint, or for providing information about any discriminatory or harassing behavior observed or experienced within the Agency to the attention of the Agency.

Consequences for Violating Policy

Employees, supervisors, or managers found to be in violation of this policy shall be subject to disciplinary action, up to and including termination.

Agency and Employee Liability

Employees who violate this policy resulting in a charge of discrimination may be financially responsible for damages awarded to the grievant.

Responsibilities

Failure to prevent workplace discrimination and harassment can result in loss of productivity, poor performance and a disruptive work environment. Therefore, it is the responsibility of every employee to support and enforce the Agency's policies regarding the equal treatment of all employees.

The State Human Resource Office shall investigate all complaints related to Workplace Discrimination and Sexual Harassment by applicants, customers, and employees in a fair, consistent, and timely manner.

Employees, Supervisors and Managers shall cooperate with the investigation into complaints related to Workplace Discrimination and Sexual Harassment by the Agency or outside Enforcement Agencies.

Supervisors and Managers are responsible for addressing employee complaints in a timely manner and to advise employees of the grievance process.

Supervisors and Managers are also responsible for counseling employees regarding behaviors which may be construed as discriminatory and/or harassing in a timely and consistent manner.

Employees who believe they have been subjected to a discriminatory, hostile, or offensive work environment should, whenever possible, put the person creating the hostile or offensive environment on notice that they find the behavior unacceptable and offensive.

AUTHORATIVE REFERENCES:

Title VII of the Civil Rights Act of 1964
Executive Order 03-13, Concerning Sexual Harassment